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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.650 OF 2005
IN
SUMMARY SUIT NO.2054 OF 2004

Bharat Bijlee Ltd.).. Plaintiffs

Versus

M/s.G.S.Punesar and Sons).. Defendants

Mr.N.J. Ratnakar i/b.Ashwin Ankhad & Associates for the Plaintiffs.

None present for the Defendants.

CORAM : SMT. NISHITA MHATRE, J.
DATED : 3RD APRIL 2006

P.C.:

. The Plaintiffs have filed the present Suit for recovery of an amount of Rs.1,83,894/- together with interest at the rate of 18% per annum. According to the Plaintiffs, they had entered into a dealership agreement with the Defendants in August 1990. This dealership agreement was renewed from time to time. The Defendants during the period from August 2000 to December 2000 placed a purchase order with the Plaintiffs aggregating to Rs.1,83,893/-. Copies of the delivery challans in respect of the goods are annexed. The Defendants have admitted the liability by their letters dated 18th July 2001 and 24th September 2001.

2. Nobody appears for the Defendants. However, an

affidavit has been sent by the Defendants in reply to the Summons for Judgment in which contention is raised that this Court has no jurisdiction. It is their contention that the goods supplied and delivered were not upto the mark.

3. The dealership agreement very clearly states in Clause 16 that if any dispute arises, only the Courts in Bombay would have jurisdiction to settle the dispute. Apart from this, the Plaintiffs have obtained leave under Clause 12 of the Letters Patent.

4. There is no document on record annexed to the affidavit stating that the goods were not upto the stipulations by the Defendant.

5. In the circumstances of the case, I am of the view that conditional leave is required to be granted to the Defendants. The Defendants shall deposit a sum of Rs.2,89,137/- within a period of six weeks from today failing which the Plaintiffs would be entitled to a decree. The Suit thereafter be transferred to the list of Commercial Causes.

4. If the Defendants deposit the amount as aforesaid, Prothonotary & Senior Master to invest the same in a Fixed Deposit of a Nationalised Bank initially

for a period of three years, to be renewed thereafter till the pendency of the Suit.